

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ROBERT D. TUMPA, SR. and DANA )  
KELLEY, individually and on behalf of others )  
similarly situated, )

Plaintiffs, )

vs. )

IOC-PA, LLC d/b/a LADY LUCK CASINO; )  
ISLE OF CAPRIS CASINOS LLC f/k/a ISLE )  
OF CAPRIS CASINOS, INC.; ELDORADO )  
RESORTS, INC.; and MARY ANN )  
RUTHERFORD, Director of Casino )  
Operations, )

Defendants. )

Civil Action No. 3:18-cv-112  
Judge Stephanie L. Haines

**ORDER AND JUDGMENT GRANTING FINAL APPROVAL OF COLLECTIVE AND  
CLASS ACTION SETTLEMENT AGREEMENT**

AND NOW this 6<sup>th</sup> day of January 2021, for the reasons set forth in the Court's accompanying Opinion, and upon careful consideration of Plaintiffs' Unopposed Motion for Final Approval of Collective and Class Action Settlement Agreement (ECF No. 54) and Plaintiffs' Unopposed Motion for Attorneys' Fees and Expenses (ECF No. 51), the parties' settlement agreement, and the proceedings at the August 20, 2020, final fairness hearing, it is hereby **ORDERED** as follows:

1. **Definitions.** Capitalized terms used in this order shall have the meaning given in the parties' Settlement Agreement (ECF No. 49-1), unless otherwise noted.

2. **Final Class Certification.** In its preliminary approval order (ECF No. 50), the Court conditionally certified the Settlement Class, pursuant to Fed. R. Civ. P. 23(b)(3), as follows:

"Settlement Class" or "Settlement Class Members" means all individuals employed as non-exempt table game dealers and operators at the Lady Luck

Casino at any time from May 24, 2015 through December 31, 2018, as to whom: (i) the Casino's time records show that their actual hours clocked-in to work exceeded the rounded clocked-in hours for which they were paid, and (ii) had they been paid for their actual hours clocked-in instead of their rounded hours clocked-in, they would have received \$5.00 or more over what they were actually paid.

The Court now finally approves certification of the Settlement Class, except to those individuals who timely opted-out of the Settlement (the "Participating Settlement Class Members"). The names of the individual Participating Settlement Class Members are listed on Exhibit A hereto.

3. **Settlement Class Representatives.** Pursuant to Fed. R. Civ. P. 23, the Court finally appoints Plaintiffs Robert D. Tumpa, Sr. and Dana Kelley to represent the Settlement Class Members.

4. **Settlement Class Counsel.** Pursuant to Fed. R. Civ. P. 23(g), the Court finally appoints Edward J. Feinstein and Ruairi McDonnell of Feinstein Doyle Payne & Kravec, LLC as Settlement Class Counsel. The Court finds that Settlement Class Counsel will fairly and adequately represent the Settlement Class Members.

5. **Notice to Class Members.** In accordance with the Court's preliminary approval Order (ECF No. 50), notice of the Settlement was timely distributed by first-class mail to all Settlement Class Members. The form and method of notifying the Settlement Class of the terms and conditions of the proposed Settlement Agreement met the requirements of Fed. R. Civ. P. 23, any other applicable law, and due process, and constituted the best notice practicable under the circumstances.

6. **Class Action Fairness Act of 2005.** Defendants have timely filed notification of this settlement with the appropriate officials pursuant to the Class Action Fairness Act of 2005 ("CAFA"), 28 U.S.C. § 1715. The Court finds that the Defendants' notification complies fully with the applicable requirements of CAFA.

7. **FLSA.** The Court also finds that the Settlement is a fair and reasonable resolution of a bona fide dispute over FLSA provisions with respect to Defendant's time clock rounding policy in conjunction with an alleged "early clock-in requirement," and furthers the implementation of the FLSA in the workplace. The terms of the release are appropriately tailored to the claims at issue in the case and the agreement is publicly available.

8. **Objections.** No timely (or untimely) objections to the Settlement Agreement have been submitted by any class member or third-party.

9. **Final Approval of Settlement Agreement.** For the reasons set forth in this Court's Opinion, Plaintiffs' Motion for Final Approval of Collective and Class Action Settlement Agreement (ECF No. 54) is hereby **GRANTED**. The Settlement is **APPROVED** as fair, reasonable, and adequate to the Participating Settlement Class Members, Plaintiffs' claims are **DISMISSED** with prejudice, and the Parties are hereby directed to take the necessary steps to effectuate the terms of the Settlement Agreement. The terms of the Settlement Agreement and this Final Order and Judgment are binding on Plaintiffs and all other Participating Settlement Class Members, as listed on Exhibit A hereto.

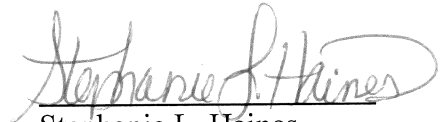
10. **Incentive Awards to Plaintiffs.** The Settlement Agreement provides for \$2,000.00 for each Plaintiff as an incentive award. The Court finds that these awards are reasonable and should be approved, as the amounts are within the range of awards customarily approved by Courts and the Plaintiffs achieved a meaningful result for absent Settlement Class Members at personal investment, inconvenience, and risk.

11. **Attorneys' Fees and Costs.** For the reasons set forth in this Court's Opinion, the Court approves Plaintiffs' counsel's request of a fee and cost award of \$25,133.08, representing \$1,011.02 in costs and \$24,122.06 in attorneys' fees. Plaintiffs' Unopposed Motion for Attorneys'

Fees and Expenses (ECF No. 51) is hereby **GRANTED**. The Court also finds that Plaintiffs' request for costs and expenses totaling \$1,011.02 should be approved.

12. **Exclusive Jurisdiction.** Without affecting the finality of this Final Order and Judgment, the Court shall retain jurisdiction for the purpose of enforcing this Final Order and Judgment or the Settlement Agreement.

13. The Clerk of Court is directed to mark this case as **CLOSED**.

A handwritten signature in black ink, appearing to read "Stephanie L. Haines", is written over a horizontal line.

Stephanie L. Haines  
United States District Court

# EXHIBIT A

CM ID	lname	fname
0001	ESASKY	SHANNAN
0002	GEORGE	JAMES L
0003	WOODS	BRYANT E
0005	KALASKY	MARCY
0006	PAYNE	LOUIS
0007	HARVEY	PAUL
0008	SPOHN	CHELSEA R
0009	OLESKY	ALAN
0010	SPROWLS	JACQUELINE
0011	DAWSON	CODY P
0012	MEADOWS	BRENNON
0013	RUSNOCK	FRANCIS
0014	JOBES	ROBERT W
0015	METHENEY	AARON D
0016	TUMPA	ROBERT D
0017	FRAZEE	TIMOTHY R
0019	HENRY	ROBERT
0020	LANCASTER	COLLEEN F
0021	RIBNISCKY	TOMMY
0022	GEORGIANA,II	DAVID
0023	CHRISE	CORY
0024	MASELLI	KELLY S
0025	PATTERSON	MARGARET
0026	LIKE	LUCINDA S
0027	RODEHEAVER,JR	LESLIE
0028	THOMAS	DAVID A
0029	FULTON	KYLE R
0030	MCGURGAN	JEFFREY
0031	MCGINNIS	PHYLLIS
0032	GRUENIG	KYLE D
0033	MYERS	GREG A
0034	KIRTON	DEBORAH A
0035	KENDALL	JOEY
0036	PETCHENY	RONALD
0037	FISH	SHANNON L
0039	GREER	LINDSEY
0040	NELSON	MADALYN R
0041	KOKOSKA	MATTHEW R
0042	RISHA	GEORGE J
0043	TAYLOR	CLAY
0044	CHRISTOPHER	ELIZABETH
0045	BELLA	KEVIN
0046	URBAN	PAUL B
0047	GROVER	RYAN J
0048	GRAHAM	KARRI J
0049	YEAGER	SANDRA M

0050	BEEGHLY	LAUREN
0051	KULIKOSKI	NATHAN
0052	HERRING	BRIAN G
0053	AYERS	TAMMY S
0054	LEAPLINE	JULIE
0055	KELLEY	DANA
0056	WHALEN	TIMOTHY P
0057	RUSH	TIMOTHY R
0058	HOFFMAN	RUTH ANN
0059	MICOZZI	CARLO
0060	RITZ	ANDREW N
0061	BROWNFIELD	THOMAS
0062	REED	ROBERT
0063	SMITH	KENYA A
0064	VRABEL	JAMES A
0065	HIGGINS	JAMES B
0066	HAGER	MELISSA R
0068	JAMES	BLAKE P
0069	HALYE	CARL
0070	WILSON	MABLE D
0071	ROGERS	MARCIE
0072	HONSE	AMBER R
0073	HOUSE	BRENDAN M
0074	YOWLER	STORM J
0075	VICTOR	JOSEPH P
0076	OZOHONISH	JOHN
0077	HARDIN	ALEX R
0078	WHITENER,JR	RONALD L
0079	PENZERA	ANDREW J
0080	JOHNSON	BRANDON L
0081	FEUERSTEIN	STEFANIE D
0082	JESTER	ALEXANDER P
0083	SHAW	BRANDI N
0084	RAMIREZ	RIMI O
0085	SWARTZ	CHRISTOPHER D
0086	EWART	ZACHARY
0087	MARSHALL	SHALYN E
0088	PETON	COREY R
0089	KENES	PATRICK S
0090	FERLAND	BRADLEY J
0091	BAKOSH	JAMES M
0092	BURKETT	SHELBY D
0093	LOWDERMILK	KATE E
0094	LAYMAN	MATTHEW R
0095	SMITH	ELIZABETH A
0096	DRILAK	DEVAN J
0097	DECARA	SEAN

0098	STAGGS	RANDY A
0099	WOOSTER	DAVID M
0100	LEMASTERS	DREW J
0101	SETTLES	ZACHARY D
0102	YEX	JAMES
0103	MOUNTAIN	MICHAEL B
0104	THOMAS	JULIA M
0105	SCHIMANSKY	SARAH N
0106	RAYMOND	DANIEL C
0107	EVANS	LEO A
0108	KISTNER	JESSICA A
0109	NOLDER	SHAWN J
0110	FETTY	NICK J
0111	HICKS	JEFFREY R
0112	YOWLER	NORMAN K
0113	HICKMAN	MICHAEL A
0114	YORK	MANDEE J
0115	SHEA,JR	RANDY L
0116	WOMBACKER	RYAN
0117	TOMLIN	KENNITA E
0118	OLMO	OMAR A
0119	KINO	JOSEPH D
0121	GRIMMEYER	THOMAS J
0122	FALK	RYAN A
0123	NOLDER	KAITLIN M
0124	BLACKWELDER	MERCEDES S
0125	GRIEDEL	CHRISTOPHER M
0126	DILLIE	TARYN R
0127	MOATS,SR	THOMAS R
0128	MORGAN	SAMANTHA J
0129	NAGY	SCOTT C
0130	HIGGINS	ROGER
0131	HORNE	TERESA B
0133	LOPEZ GONZALEZ	EDUARDO Y
0134	DAVIS	SHANNON E
0135	ESTEP	CHRISTY L
0136	SARGENT	DANIEL E
0137	JONES	JONATHAN E
0139	BLACKA	MARYLOU
0140	DILLS	SCOTT A
0141	SCOTT	DEIDRE A
0145	MCMILLEN	BRANDON S
0146	RICHARDSON	WILLIAM P